

February 14, 2001

KENNEBEC WATER DISTRICT
CONSUMERS MAINE WATER COMPANY –
OAKLAND, Request for Approval of Amendment
of Special Rate Contract

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order we approve a contract between Consumers Maine Water Company (CMWC) and the Kennebec Water District (KWD) for water supply to serve CMWC's Oakland Division customers.

II. BACKGROUND

On November 9, 2000, CMWC and KWD submitted a joint filing seeking Commission approval, pursuant to 35-A M.R.S.A. § 703(3), of a contract for the purchase of water by CMWC from KWD to serve the customers of CMWC's Oakland Division (Oakland). Since 1994, CMWC has purchased water from KWD through a contract that reflects KWD's tariffed rates. Those rates increased 8.5% in 1995 and 40% in 1999.¹ KWD's rates recently increased an additional 30%. *Kennebec Water District, Proposed Increase in Rates*, Docket No. 2000-714 (Jan. 19, 2001).

Given these increases, CMWC represents that it explored other alternatives for supplying water to its customers. It has provided an analysis that shows that it could build its own filtration plant, using Messalonskee Lake as a source of water, and supply its customers at a lower cost than through a purchase from KWD at tariffed rates. The CMWC analysis of the "expected case" assumes that the Town of Oakland will obtain a \$375,000 CDBG grant to finance a portion of the \$664,355 filtration plant.

After considering the analysis, KWD agreed to a new 10-year contract with CMWC that will initially increase Oakland's rates by 8% (rather than the recently approved 30%). The contract further provides that Oakland's rates will be adjusted at the time of any district-wide rate increase proceeding, based on the new tariffed rate then in effect for 4 inch metered service.

¹ The Oakland Division did not increase rates to its customers to reflect either of these increases. The Oakland Division currently has a rate increase pending before the Commission that assumes the approval of the newly contracted rates. *Consumers Maine Water District – Oakland Division, Proposed Rate Change (11.48% Increase in Revenue)*, Docket No. 2001-008.

III. DISCUSSION AND DECISION

We have previously stated that before a water district enters into a special contract with a customer, the customer must demonstrate that it has an economical and technically feasible alternative water supply. The district must independently evaluate the analysis conducted by the customer and, given the totality of the circumstances, determine the likelihood of the customer's pursuing the alternative. In negotiating a special rate, the district must ensure that any negotiated rates exceed its marginal costs. *Searsport Water District, Proposed Rate Change*, Docket No. 97-793 (July 23, 1998) at 11.

Our staff has reviewed CMWC's analysis for building a filtration plant and finds the assumptions used by CMWC to be reasonable, provided that the Town of Oakland could obtain a CDBG grant for the stated purpose. CMWC's estimates for both building and operating a plant are based on its experience operating a similarly sized plant in Bucksport. It already owns the land around a potential water intake and sewer, and electric connections are available. In general, its plan is a viable one.

On the other hand, if KWD lost Oakland as a customer, KWD's customers would experience a 4% increase in rates. Under the proposed contract, Consumers will pay \$1.03/HCF, while current tariffed rates would be \$1.232/HCF. KWD's marginal cost of production is less than \$.30/HCF. Therefore, under the contract, CMWC continues to make a sizeable contribution to KWD which is particularly important given KWD's loss of load from its two largest customers over the last three years.

Based on the analysis presented, we approve the contract pursuant to 35-A M.R.S.A. § 703(3), as KWD has viable alternatives and will continue to make a sizeable contribution in excess of KWD's marginal costs.

Dated at Augusta, Maine, this 14th day of February, 2001.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Nugent
 Diamond

COMMISSIONER ABSENT: Welch

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.